IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2505 OF 2004

IN

SUIT NO.1910 OF 2002

AND

NOTICE OF MOTION NO.2506 OF 2004

IN

SUIT NO.1911 OF 2002

AND

NOTICE OF MOTION NO.2507 OF 2004

IN

SUIT NO.1887 OF 2002

...

Mr.Paresh Valia
Prop.of Paresh Valia
and Association. ...Plaintiff

v/s.

Mr.Zahur Aziz Mohid
Proprietor of
M/s.Mohid Constructions Co. ...Defendant

...

None for the Plaintiff.

Mrs.Tripti Gohil for for Defendant in support of Notice of Motion.

...

CORAM: D.K.DESHMUKH, J.

DATED: 24TH JUNE,2005

P.C.:

1. These Notices of Motion are taken out by the Defendant for setting aside the order dated 29-6-2004 terming that order as an exparte order. However, perusal of the order shows that though the order was passed in the absence of the Defendant, the reply filed in the summons for judgment by the Defendant has been taken into consideration by the Court and the conditional leave to defend was granted in favour of the Defendant.

2. The only reason that has been given in the affidavit for setting aside the order is that the advocate of the Defendant and the Defendant were not

present in the court and that the Defendant was in process of changing his advocate. No discloses were made as to when the papers were taken back from the advocate by the Defendant and if the Defendant had taken back the papers from the advocate the Defendant should not have made it his business to remain present in Court. I do not find any explanation why the Defendant himself did not remain present in Court. I find that this Notice of Motion has been taken out by the Defendant merely to avoid the liability to make the payment. Notices of Motion are, therefore, disposed of.

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